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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LATONIA SMITH,

Plaintiff(s),

-vs-

FENNEMORE CRAIG,

Defendant(s).

Case No.: 2:19-cv-00824-GMN-GWF

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANT
FENNEMORE CRAIG'S SPECIAL
MOTION TO DISMISS PURSUANT
TO NRS 41.660 -AND- MOTION TO
DISMISS PURSUANT TO FRCP
12(B)(6)**

Pursuant to Federal Rule of Evidence 201, Defendant Fennemore Craig ("Fennemore"), by and through its counsel of record, Snell & Wilmer L.L.P., requests that the Court take judicial notice of or otherwise consider the documents listed below in connection with its concurrently filed motions to dismiss. Judicial notice of the following documents is appropriate, as they consist of matters of public record, including publicly filed documents and pleadings filed in a related case, which are attached:

1. Opposition to Defendants' Emergency Motion for Protective Order to Exclude Latonia Smith from All Proceedings on an Order Shortening Time, filed on April 22, 2019, in Eighth Judicial District Court, Clark County, Nevada Case No. A-18-784032-C (attached as **Exhibit A**).

2. Defendants' Emergency Motion for Protective Order to Exclude Latonia Smith from All Proceedings on an Order Shortening Time, filed on April 22, 2019, in Eighth Judicial District Court, Clark County, Nevada Case No. A-18-784032-C (attached as **Exhibit B**).¹

3. Plaintiffs' Complaint, filed on March 15, 2018, in Eighth Judicial District Court, Clark County, Nevada Case No. A-18-771192-C (attached as **Exhibit C**).

4. March 16, 2018, Temporary Order for Protection Against Stalking, Aggravated Stalking, or Harassment (NRS 200.591) issued in the Justice Court of Las Vegas Township, Clark County, Nevada Case No. Protective Order issued in Case No. 18PO0421 (attached as **Exhibit D**).

5. June 2018 Settlement Agreement between Caesars Entertainment Corporation, PHWLTV, LLC, Samantha Radak, and Latonia Smith (attached as **Exhibit E**).

6. May 21, 2019, Temporary Order for Protection Against Stalking, Aggravated Stalking, or Harassment (NRS 200.591) issued in the Justice Court of Las Vegas Township, Clark County, Nevada Case No. Protective Order issued in Case No. 19PO0589 (attached as **Exhibit F**).

7. February 19, 2019, Notice of Appearance of Counsel in Eighth Judicial District Court, Clark County, Nevada Case No. A-18-784032-C (attached as **Exhibit G**).

In deciding a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Court's inquiry is generally directed to the face of the complaint. *See Van Buskirk v. Cable News Network*, 284 F.3d 977, 980 (9th Cir. 2002). There are, however, several established exceptions that permit the Court to consider matters extrinsic to the pleading. These include (1) matters subject to judicial notice under Federal Rule of Evidence 201; (2) documents attached to the complaint, (3) documents incorporated by reference into the complaint, even if not quoted, and (4) documents that are integral to the plaintiff's claims and whose authenticity is not in dispute. *United States v. Ritchie*, 342 F.3d 903, 907-09 (9th Cir. 2003); *Parrino v. FHP, Inc.*, 146 F.3d 699, 706 n.4 (9th Cir. 1998). Here, the documents listed above are the proper subject of judicial notice, or are otherwise appropriate for consideration in connection with a motion under Rule 12(b)(6).

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¹ Fennemore attaches the Emergency Motion for Protective Order without exhibits.

1 *First*, the Court may take judicial notice of pleadings, memoranda, court orders, and other
 2 filings in related cases. *See, e.g., Burbank-Glendale-Pasadena Airport Authority v. City of*
 3 *Burbank*, 136 F.3d 1360, 1364 (9th Cir. 1998) (where the court took judicial notice of pleadings
 4 filed in a related case that was litigated in a different court); *Reyn's Pasta Bella, LLC v. Visa USA,*
 5 *Inc.*, 442 F.3d 741, fn. 6 (9th Cir. 2006) (explaining that a court can take judicial notice of the
 6 parties' briefs, other pleadings, memoranda, expert reports, court filings and other matters of public
 7 record); *Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002) (where the court took judicial notice
 8 of briefs filed in a related proceeding). Exhibits A, B, C, D, F, and G, are all publicly-filed court
 9 documents.

10 *Second*, Exhibits B, C, D, E, and G are all referenced in Ms. Smith's Complaint. *See* Pl.'s
 11 Compl., ECF No. 1, at ¶¶ 34, 35-40, 42-43, 46, 85, and 94. These documents are judicially
 12 noticeable. *See Ritchie*, 342 F.3d at 908 ("A court may, however, consider certain materials—
 13 documents attached to the complaint, documents incorporated by reference in the complaint, or
 14 matters of judicial notice—without converting the motion to dismiss into a motion for summary
 15 judgment.").

16 CONCLUSION

17 For the reasons set forth above, Fennemore respectfully request that the Court take judicial
 18 notice of the attached Exhibits.

19 Dated: June 5, 2019.

SNELL & WILMER L.L.P.

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 21 By: 

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24 *Attorneys for Defendant Fennemore Craig*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF DEFENDANT FENNEMORE CRAIG'S SPECIAL MOTION TO DISMISS PURSUANT TO NRS 41.660 -AND- MOTION TO DISMISS PURSUANT TO FRCP 12(B)(6)** by method indicated below:

☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).

☒ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

Latonia Smith (*in Pro Per*)
9748 Canyon Landing Ave.
Las Vegas, NV 89166
Tel: (702) 521-3522

☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.

☐ **BY PERSONAL DELIVERY:** by causing personal delivery by _____, a messenger service with which this firm maintains an account, of the document(s) listed above to the person(s) at the address(es) set forth below.

☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

DATED this 5th day of June, 2019.



An employee of SNELL & WILMER L.L.P.

4824-1630-5304